



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

May 29, 1998

Ms. Donna M. Atwood
Legal Counsel
Dallas/Fort Worth International Airport
P.O. Drawer 619428
DFW Airport, Texas 75261-9428

OR98-1340

Dear Ms. Atwood:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 116031.

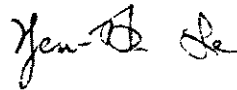
The Dallas/Fort Worth International Airport (the "airport") received two requests for information concerning shared-ride providers at the airport. Although you will release some of the requested information, you contend that the requested information as to the airport's request for proposal concerning a single service provider is excepted from required public disclosure by sections 552.104 and 552.111 of the Government Code. We have considered your arguments and reviewed the information submitted.

Section 552.104 excepts from required public disclosure "information that, if released, would give advantage to a competitor or bidder." The purpose of this exception is to protect the purchasing interests of a governmental body, usually in competitive bidding situations prior to the awarding of a contract. Open Records Decision No. 593 (1991) at 2. Section 552.104 requires a showing of some actual or specific harm in a particular competitive situation; a general allegation that a competitor will gain an unfair advantage will not suffice. Open Records Decision No. 541 (1990) at 4.

You state that release of the requested information "will provide an advantage to competitors or bidders for the shared-ride service concession currently under consideration by the [airport]." Furthermore, you state that the airport's "interests in a fair and equitable proposal process and in obtaining the most qualified service provider(s) for airport customers will be served best by allowing the normal selection process to go forward," and that "[t]o disclose a draft RFP or similar information to the requestor(s) prior to that time will interfere with the competitive process." Therefore, we conclude that the airport may withhold the information which you have asserted is excepted from disclosure under section 552.104. Once the competitive bidding process is completed and a contract has been awarded, you may not continue to withhold this information under section 552.104. Open Records Decision No. 541 (1990) at 5.

As the matter is resolved under section 552.104, we need not address your other claimed exception. We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Yen-Ha Le
Assistant Attorney General
Open Records Division

YHL/rho

Ref.: ID# 116031

Enclosures: Submitted documents

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